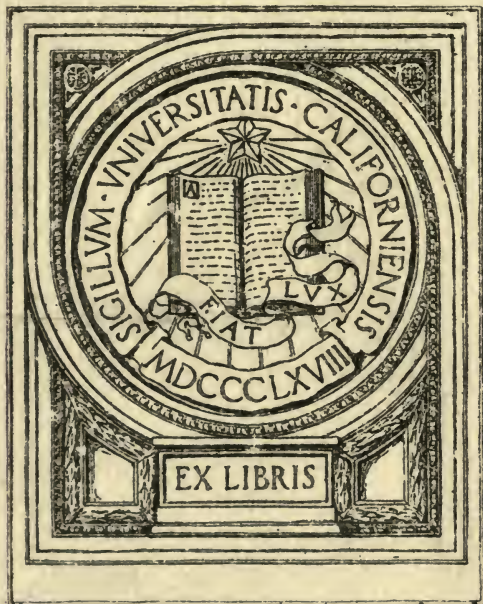
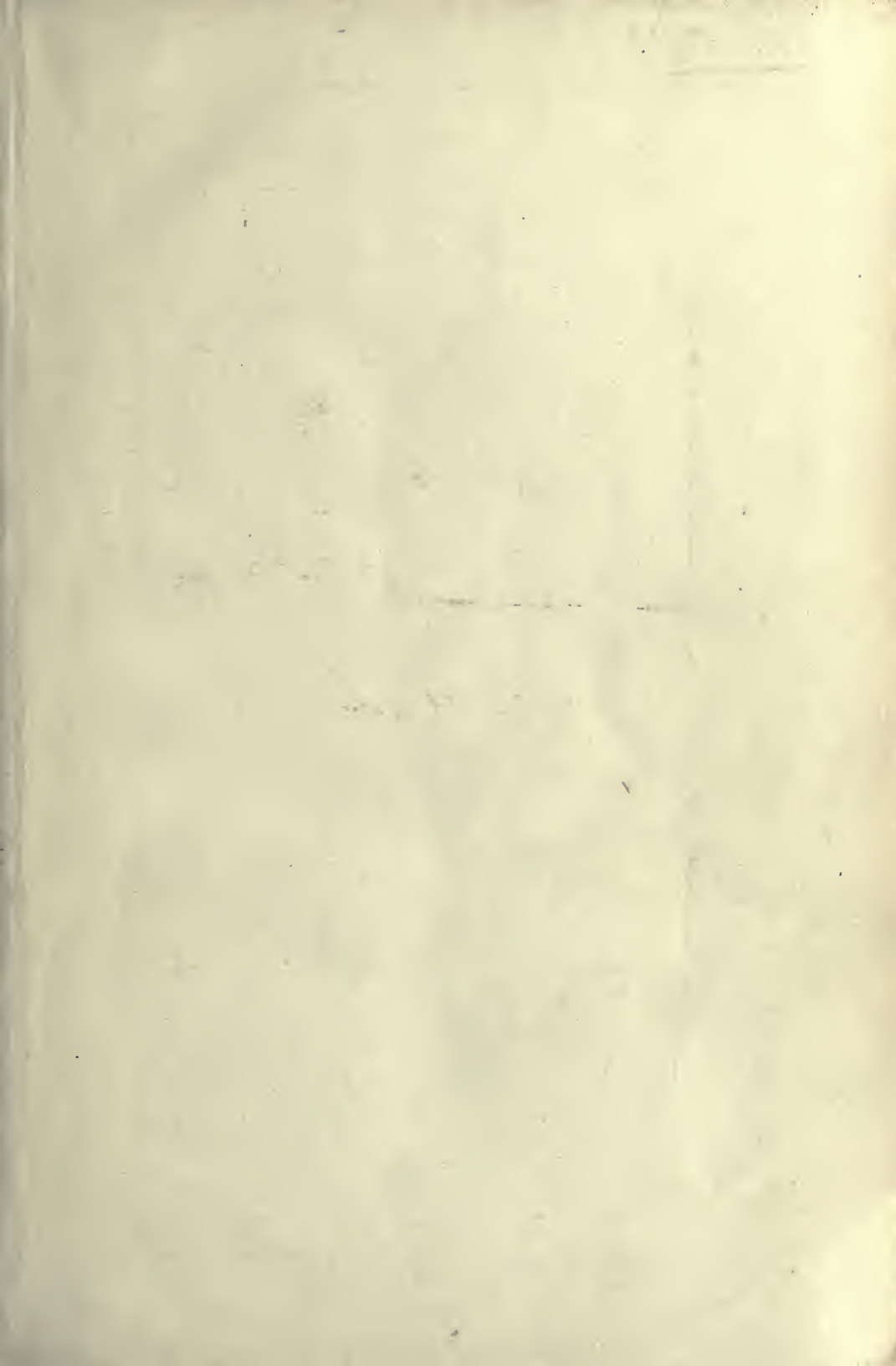
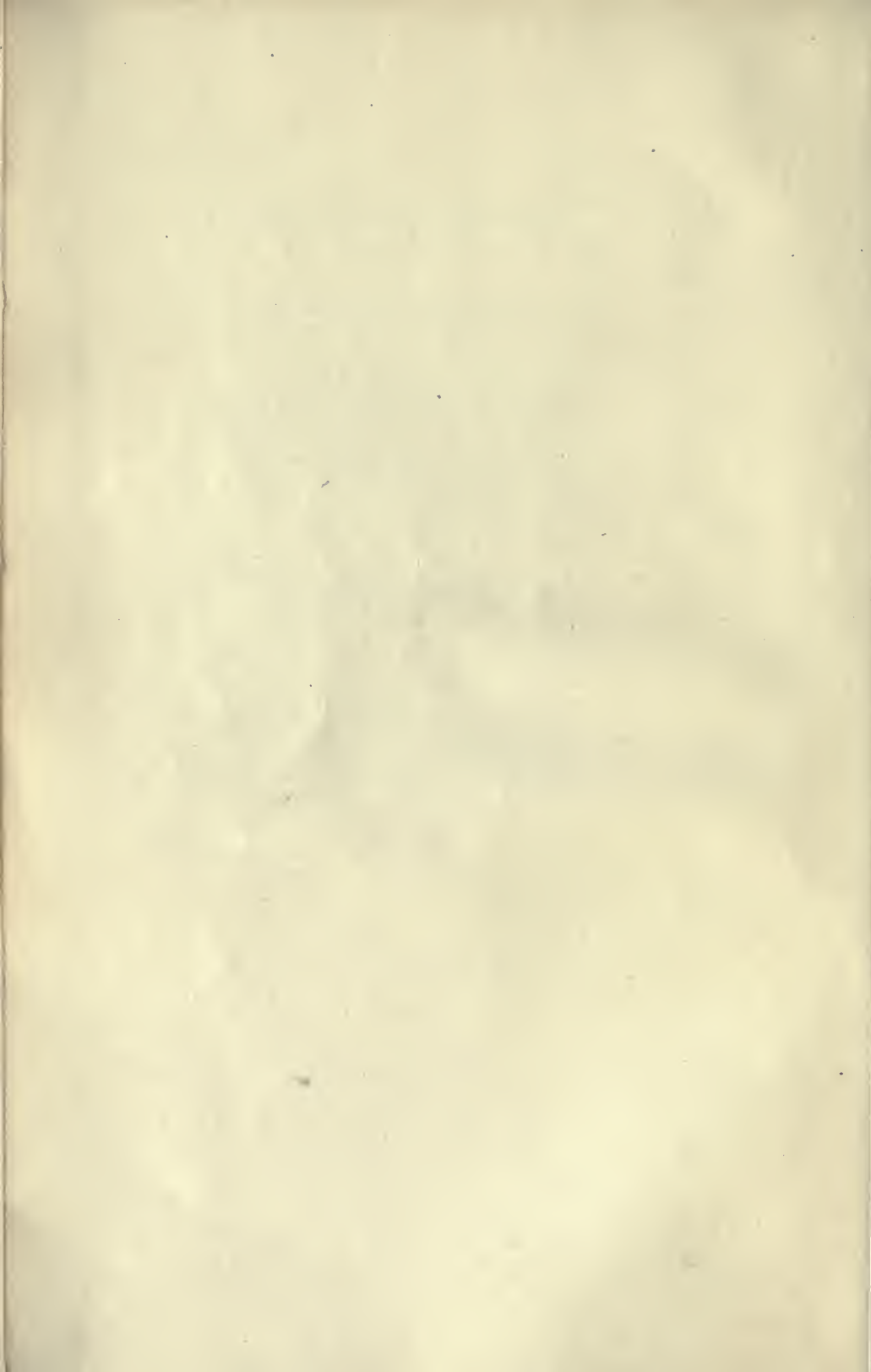


GIFT OF



EX LIBRIS







Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation





ACT 242

AN ACT to prevent fraud in the sale and disposition of contracts, stocks, bonds, or other securities sold or offered for sale within the State of Arkansas by any dealer, firm, company, association or corporation, foreign or domestic, by requiring an inspection of such contracts, stocks, bond, or other securities, and an inspection of the business of such persons, firms, companies, associations or corporations, including dealers and agents, and such regulation and supervision of the business of said persons, firms, companies, associations or corporations, including dealers and agents as may be necessary to prevent fraud in the sale within this State of any contracts, stocks, bonds, or other securities, and to provide a penalty for the violation thereof.

SECTION

1. Bank Commissioner to be executive officer.
2. Investment company defined.
3. Exempts certain classes of securities.
4. Provides method of application and fixes fees.

5. All applications to be verified.
6. Irrevocable consent for service of process.
7. May require additional information; may examine.
8. Shall issue permit, if found not fraudulent.
9. "Dealer" defined; prescribes regulation of business.
10. How "dealer" may be licensed.
11. Agents.
12. Accounts and examinations; fees for.
13. Unlawful to do any business until law complied with.
14. Unlawful for "dealer" until law complied with.
15. Information subject to public inspection.
16. Act no way repeals or cancels Bank or Insurance laws.
17. Penalty for false oath.
18. Copies may be furnished; receipts reappropriated.
19. Annual report.
20. Appeal.
21. Penalty.
22. Constitutionality confined to each Section.
23. In force from and after passage; Act 214 of 1913 repealed.

Be It Enacted by the General Assembly of the State of Arkansas:

SECTION 1. The State Bank Commissioner shall be and he is hereby constituted and delegated with full power and authority to supervise and enforce the provisions of this Act, and he shall appoint an assistant

at a salary not exceeding eighteen hundred dollars per annum for the purpose of this Act, and such Bank Commissioner shall make such rules and regulations as may be necessary to carry out the provisions herein and shall prepare all necessary blanks, records and stationery, and shall pay all other expenses lawfully incurred hereunder.

SECTION 2. Every person, corporation, co-partnership, company or association (except those exempt under the provisions of this Act), organized or which shall hereafter be organized in this State, whether incorporated or unincorporated, which shall either himself, themselves or itself, or by or through others, sell or negotiate for the sale of any contract, stock, bonds or other securities issued by him, them, or it, within the State of Arkansas shall be known for the purposes of this Act as a domestic investment company.

Every such person, corporation, co-partnership, or association a resident of or organized in any other State, Territory or government shall be known for the purposes of this Act as a foreign investment company.

SECTION 3. The provisions of this Act shall not apply to, (a) securities of the United States; or any foreign government; or any State or Territory thereof, or of any county, city, township, district, or other public taxing subdivision of any State or Territory of the United States, or any foreign government; (b) unsecured commercial paper; (c) securities of public or *quasi*-public corporations, the issue of which securities is regulated by the Arkansas Railroad Commission or by any public service commission or board of equal au-

thority of any State or Territory of the United States or securities senior thereto; (d) securities of State or National banks or trust companies; (e) securities of any domestic corporation organized without capital stock, and not for pecuniary gain, or exclusively for educational, benevolent, charitable, or reformatory purposes; (f) mortgages upon real or personal property situated in this State where the entire mortgage is sold and transferred with the note or notes secured by such mortgage; (g) increase of stock sold and issued to stockholders, also stock dividends; (h) securities which are listed in any standard manual of information approved by said Bank Commissioner; *provided, however*, that said Bank Commissioner shall have power to call for additional and further information than that contained in such manuals with reference to any securities listed therein, and may, pending the filing of such information, suspend the sale of such securities, and also suspend, either temporarily or permanently, the sale of any securities listed in such manuals after a hearing upon notice to the issuer of such securities if said Bank Commission shall find that the sale of such securities would work a fraud upon the purchaser thereof.

SECTION 4. Before selling, offering for sale, taking subscriptions for, or negotiating for the sale in any manner whatsoever in this State, any contracts, stocks, bonds, or other securities of its own issue, every investment company, domestic or foreign, shall file in the office of the Bank Commissioner a statement showing in full detail the plan upon which it proposes to transact business, a copy of all contracts, stocks, bonds, or other instruments which it proposes to make with or sell to, its contributors or customers, together with a copy of its prospectus, and of the proposed advertise-

ments of its sale of stocks, bonds, or other securities, which statement shall also show the name and location and main office of the investment company; the names and addresses of its officers, and an itemized account of its financial condition and of its assets and liabilities, and such other information touching its condition and affairs as the Bank Commissioner may require.

If such investment company shall be a co-partnership or an unincorporated association, it shall also file with the Bank Commissioner a copy of its articles of co-partnership or association, and all other papers pertaining to its organization. If it be a corporation organized under the laws of Arkansas, it shall also file with the Bank Commissioner a copy of its articles of incorporations, constitution and by-laws, and all other papers pertaining to its organization. If it shall be an investment company organized under the laws of any other State, Territory or government, incorporated or unincorporated, it shall also file with the Bank Commissioner a copy of the laws of the State, or Territory, or government, under which it exists or is incorporated, and also a copy of its charter and the certificate of the proper officer of such State showing that it is authorized to transact business there; and also copies of its constitution and by-laws and of all amendments of any of the above mentioned instruments which have been made, and of all other papers pertaining to its organization. It shall also pay a filing fee of one-tenth per cent upon the face value of the securities for the sale of which application is made; *provided, however*, such filing fee shall not be more than one hundred dollars, nor less than ten dollars.

SECTION 5. All the above described papers shall be verified by the oath of a member of the co-partner-

ship or company, if it be a co-partnership or company, and by the oath of a duly authorized officer, if it be a corporation or an unincorporated association.

All such papers, however, as are recorded or are on file in any public office shall be further certified by the officer of whose records or archives they form a part, as being correct copies of such records or archives.

SECTION 6. Every foreign corporation before offering for sale any of its stocks, bonds, or other securities in this State shall file its irrevocable written consent that suits and actions may be commenced against it in the proper courts of any county in this State in which a cause of action may arise, or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this State, on the Bank Commissioner, said consent stipulating and agreeing that such service of such process or pleading on such Commissioner shall be taken and held in all courts to be as valid and binding as if due service had been made on the company itself, and said instrument containing such consent shall be authenticated by the seal of said foreign corporation, and shall in such case be accompanied by a duly certified copy of the resolution of the Board of Directors, authorizing the president and secretary to execute the same. In case any process or pleading mentioned in this Act are served upon the Bank Commissioner, it shall be by duplicate copies, one of which shall be filed in the office of the Bank Commissioner, and another immediately forwarded by registered mail to the head office of the corporation against which said process or pleadings are directed.

SECTION 7. The said Bank Commissioner shall have power to demand from any investment company seeking to come under the provisions of this Act any further information other than such investment company is required to furnish under the provisions of this Act which shall be necessary to properly qualify him to pass upon all questions that may come before him. He may make or have made under his direction a detailed examination of such investment company's property, business and affairs, which examination shall be at the expense of the applicant. He may cause an appraisal to be made at the expense of the investment company, of the property of the said investment company, including the value of patents, good will, promotion and intangible assets, and he may fix the amount of stocks, bonds, or other securities that may be issued by any corporation, foreign or domestic, in payment for property, patents, good will, promotion and intangible assets at the value he shall find same to be worth, and may require that such stocks, bonds, or other securities so issued for such property, patents, good will, promotion and intangible assets shall be deposited in escrow under such terms as said Bank Commissioner may prescribe. And said Bank Commissioner may withhold his certificate of authority to sell such stocks, bonds, or other securities if such corporation has issued stocks, bonds, or other securities in payment for property, patents, good will, promotion and intangible assets in excess of their value as found by said Bank Commissioner, or if said stocks, bonds or other securities are not deposited in escrow according to the terms fixed by the Bank Commissioner until such stocks, bonds, or other securities issued in payment for property, patents, good will, promotion and intangible assets in excess of the value so found by said Bank Com-

missioner has been surrendered to such corporation and cancelled by it, and until the said stock has been deposited in escrow under the terms prescribed by said Bank Commissioner.

SECTION 8. It shall be the duty of said Bank Commissioner to examine the statements and documents filed in his office by any investment company and the reports of any investigation conducted under the direction of said Bank Commissioner and to hear such applicant and he shall have power to examine under oath any person interested or connected with such investment company, and if said Bank Commissioner finds that the proposed contracts, stocks, bonds, or other securities are fraudulent or of such nature that the sale thereof would, in the opinion of the said Bank Commissioner work a fraud upon the purchaser, then the said Bank Commissioner shall disapprove the sale of such proposed contracts, stocks, bonds, or other securities and shall notify such investment company by registered mail of his findings and disapproval, and it shall be unlawful for such company to do any further business in the way of selling, offering for sale, taking subscriptions for, or negotiating for the sale in any manner whatever of any such contracts, stocks, bonds, or other securities in this State; and said contracts, stocks, bonds, or other securities shall not be sold in this State. If, however, such Bank Commissioner shall not find that the proposed plan of business of said investment company or that its proposed contracts, stocks, bonds or other securities are fraudulent or are of such nature that the sale thereof, would in the opinion of said Bank Commissioner, work a fraud upon the purchaser thereof, then he shall approve the sale of same in the State of Arkansas, and issue his certificate in substantially the following language:

This is to certify that the.....
has this day been given permission to sell \$.....
of its.....within the
(Stocks, bonds, or other securities)
State of Arkansas.

THE BANK COMMISSIONER DOES NOT
RECOMMEND THE PURCHASE OF THIS SE-
CURITY (2 sizes larger).

This.....day of.....A. D.
191....

In witness whereof, I have hereunto affixed the
seal of the bank department.

Done at Little Rock this.....
day of.....A. D. 191....

.....
Bank Commissioner.

(SEAL.)

The words "the Bank Commissioner does not rec-
ommend the purchase of this security" shall be printed
in type two sizes larger than any other part of said
certificate, and in case said certificate or the fact that
said Bank Commissioner has approved said securities
is printed or published in any circular, pamphlet or
newspaper, the words "the Bank Commissioner does
not recommend the purchase of this security" shall be
printed in type two sizes larger than the balance of said
certificate, or statement of such fact that such securi-
ties have been approved by said Bank Commissioner
appears.

SECTION 9. Any person, firm, copartnership, corporation or association, whether domestic or foreign, not the issuer, who shall in this State sell or offer for sale any of the stocks, bonds or other securities issued by any foreign or domestic investment company except the securities specifically exempted in this Act, or who shall, by advertisement or otherwise, profess or engage in the business of selling or offering for sale such securities, shall be deemed to be a "dealer" in such securities within the meaning of this Act, and no dealer within the meaning of this Act shall sell or offer for sale any such securities or profess the business of selling or offering for sale such securities unless and until he shall have filed a list of the same in the office of the Bank Commissioner as in this Act provided. The term "dealer" shall not include an owner, not issuer, of such securities so owned by him when such sale is not made in the course of continued and successive transactions of a similar nature, nor one who, in a trust capacity created by law, lawfully sells any securities embraced within such trust.

SECTION 10. Any dealer desiring to sell or offer for sale within this State any stocks, bonds or other securities not exempted under the terms of this Act, shall first register with the Bank Commissioner and shall furnish said Bank Commissioner upon oath in such form as the Bank Commissioner shall prescribe the following information, to wit: The dealer's name, residence and business address, the general character of the securities to be dealt in, the place or places where the business is to be conducted within this State, and where the business in this State is not to be conducted by the dealer in person, then the names and addresses of all persons in charge thereof. Said dealer at the

time of such registration shall pay to the Bank Commissioner an inspection fee of fifty dollars and shall furnish said Bank Commissioner with such other information in addition to that above specified as said Bank Commissioner shall deem necessary in order to thoroughly acquaint himself with the character of the business of such dealer. All authorized agents of any dealer shall be registered with the Bank Commissioner and the name of any agent shall be stricken from the register by the Bank Commissioner upon the written request of the dealer and additional agents may be registered by the Bank Commissioner upon like request of the dealer accompanied with the fee therefor; *provided*, that no agent shall act as such until his name and address shall be registered with the Bank Commissioner.

If the dealer be a foreign corporation, it shall at the time it registers with the Bank Commissioner file with the Commissioner a written duly authenticated appointment of the Bank Commissioner of this State as its agent in Arkansas upon whom process or pleadings may be served for and on behalf the dealer for the purposes mentioned in section 6 of this Act, and such appointment shall be irrevocable.

Upon compliance by such dealer with the provisions of this Act, the said Bank Commissioner shall issue to him a certificate of authority under the seal of said commission, which said certificate shall be valid for one year from the date thereof, or until revoked by said Bank Commissioner for good cause upon notice to such dealer and a hearing duly had; *provided*, that in the event such certificate of authority be not revoked before the expiration of one year from the date thereof, same may be renewed by the said Bank Commissioner upon receipt of an inspection fee of twenty-five dollars.

SECTION 11. In addition to the filing fees and examination fee herein provided for to be paid by investment companies and dealers, there shall be charged and collected by the Bank Commisisoner a fee of two dollars for the registration and authorization of each agent of any such dealer or investment company, and shall be valid until March 1 following, unless sooner revoked by the Commissioner for cause appearing sufficient, and all the fees and charges collected by the Bank Commissioner shall be turned into the State treasury and are hereby reappropriated to the Bank Commissioner toward paying the expenses of enforcing this Act. The expenses of said Bank Commissioner shall not, however, be limited to the moneys received by him, but he shall have power to incur all expenses he finds necessary in enforcing the provisions hereof.

SECTION 12. The general accounts of every investment company, domestic or foreign, shall be kept in a business-like and intelligent manner and in sufficient detail that said Bank Commissioner can ascertain at any time its financial condition and the books of accounts shall at all times during business hours, except on Sundays and legal holidays, be open to stockholders and investors in said company, or the said Bank Commissioner, and all such investment companies shall be subject to examination by said Bank Commissioner, or duly authorized examiner at any time said Bank Commissioner shall deem it advisable and in the same manner as is now provided for the examination of State banks, and such investment companies other than building and loan, building, or building and savings associations shall pay a fee for each such examination not to exceed ten dollars per day or fraction thereof that any examiner is absent from the Capitol building for

the purpose of making such examination, and in addition thereto shall pay the actual hotel and traveling expenses of such authorized examiner from Little Rock and return. It shall be the duty of said Bank Commissioner to make or cause to be made at least once a year an examination of all building and loan, building or building and savings associations doing business in this State, in the manner now provided for the examination of State banks, and such building and loan, building, or building and savings association shall pay a fee for each of such examinations of not to exceed ten dollars per day plus ten cents per each one thousand dollars or fraction thereof of its assets; *provided*, that in no event may the charge for such examination exceed fifty dollars, if such building and loan, building, or building and savings association be a domestic investment company; and, *provided also*, that such charge for such examination may not exceed fifty dollars plus the necessary hotel and traveling expenses from Little Rock and return if such building and loan, building, or building and savings association be a foreign corporation. And the failure or refusal of any investment company to pay such fees upon demand of such Bank Commissioner or duly authorized examiner, while making such examination, shall work a forfeiture of the right of such investment company to sell or offer for sale any of its contracts, stocks, bonds, or other securities in this State. In case a preliminary examination of any investment company by said Bank Commissioner for the purpose of the ascertainment by said Bank Commissioner as to whether said company shall be permitted to come under the provisions of this Act, the fee for such examination shall be the same as in this section provided, and in case it shall appear to the Bank Commissioner from the examination of such investment

company, after said investment company has been authorized to sell or offer for sale its contracts, stocks, bonds or other securities that the further sale of said contracts, stocks, bonds or other securities would work a fraud upon the purchaser, then said Bank Commissioner may make an order revoking the license of such investment company to sell its contracts, stocks, bonds or other securities upon notice duly given and a hearing duly had, and may, pending such hearing, suspend the right of such investment company to sell its contracts, stocks, bonds or other securities.

SECTION 13. It shall be unlawful for any investment company or dealer, or representative thereof, either directly or indirectly, to sell or cause to be sold, offer for sale, take subscriptions for, or negotiate for the sale in any manner in this State, any contracts, stocks, bonds or other securities (except as expressly exempted herein), unless and until said Bank Commissioner has approved thereof and issued his certificate in accordance with the provisions of this Act, nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statements and papers required to be filed by virtue of the provisions of this Act or the rules of the Bank Commissioner. It shall be unlawful for any investment company, or dealer, or its or his agents, to issue, circulate or deliver any advertisement, pamphlet, circular, prospectus or other document in regard to its stocks, bonds or other securities in the State of Arkansas differing in any way from the copy filed with the said Bank Commissioner as provided by this Act. It shall be unlawful for any newspaper published in the State of Arkansas to advertise the sale of any stocks, bonds or other securities which have not been approved

by said Bank Commissioner or which are not exempt under the provisions of this Act.

SECTION 14. No dealer within the meaning of this Act shall sell or offer for sale within this State any of the stocks, bonds or other securities of any investment company unless such investment company shall have fully complied with all the provisions of this Act, nor until said dealer shall have registered with the Bank Commissioner under the terms of this Act; *provided, however,* that should any dealer desire to sell or offer for sale within this State the contracts, stocks, bonds or other securities of any investment company, which has not itself complied with the provisions of this Act, said dealer shall make application to the said Bank Commissioner for license as hereinbefore provided for applications by investment companies and shall pay the same fee required to be paid by said investment company.

SECTION 15. All information obtained by the Bank Commissioner with reference to any securities and all records of the Bank Commissioner relating thereto shall be open to examination by the public, and it shall be the duty of the Bank Commissioner to preserve such information, and so classify and arrange it as to facilitate examination and inspection thereof. The Bank Commissioner may from time to time issue in pamphlet form, or by newspaper advertisements, or otherwise, any and all information regarding any and all contracts, stocks, bonds or other securities sold or offered for sale within this State which he deems would be of public interest or advantage.

SECTION 16. Nothing in this Act shall be construed to repeal or modify any laws giving the State Bank Department of this State control over State banks, and the business of banking in this State, nor shall any part of this Act be construed to repeal or modify laws giving the Insurance Commissioner of this State control of and supervision over the business of insurance in this State, and those engaged therein.

SECTION 17. Any person who shall knowingly or wilfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company, or who shall exhibit any false paper with the intention or for the purpose of deceiving any person authorized to examine into the affairs of said investment company, or shall make or publish any false statement of the financial condition of said investment company or false statement relating to the contracts, stocks, bonds or other securities by it issued and offered for sale, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided.

SECTION 18. The Bank Commissioner shall provide for the furnishing to those who may apply therefor of any information regarding any investment company or its affairs, which is on file in its office, said Bank Commissioner to charge therefor approximately the cost of preparing such information, and fifty cents for each certificate of authentication. All fees collected under the provisions of this Act shall be paid into the State treasury on the first day of each and every calendar month, and a complete record of all fees received shall be kept in the office of the Bank Commissioner, and all said fees so turned into the State treasury are hereby reappropriated to the Bank Com-

missioner for the purpose of paying salaries and expenses necessary for carrying this Act into effect.

SECTION 19. Every investment company, domestic or foreign, shall file during the month of January in each year, a detailed statement in such form and containing such information as the Bank Commissioner may prescribe and require, showing its condition at the close of business December 31 preceding, and shall at the same time pay a filing fee therefor of two dollars and fifty cents; *provided*, that said Bank Commissioner may call for other or additional reports of any kind at any time, and such other or additional reports shall be filed within twenty days after call therefor.

SECTION 20. An appeal will always lie to the Chancery Court, upon petition of any person aggrieved and upon payment of the costs of preparing such copies of papers and other documents desired by said petitioner from any final orders of the Bank Commissioner. The granting of such appeal shall not, however, unless so ordered by such court or other court of competent jurisdiction, operate as a stay of proceedings.

SECTION 21. Any person or persons who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one thousand dollars or may be imprisoned in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court or jury trying the case.

SECTION 22. Should the courts of this State or of the United States declare any section or provision of

this Act unconstitutional or unauthorized, or in conflict with any other section or provision of this Act, then such declaration shall affect only the section or provision so declared to be unconstitutional or unauthorized or if in conflict only such provisions or parts as are so held, and such holding shall not affect any other section of part of this Act.

SECTION 23. All laws and parts of laws in conflict herewith, and particularly Act 214 of the Legislature of 1913, in its entirety are hereby repealed, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in force from and after its passage.

Approved March 24, 1915.

UNIVERSITY OF CALIFORNIA LIBRARY
BERKELEY

Return to desk from which borrowed.
This book is DUE on the last date stamped below.

NOV 25 1947

NOV 25 1947

100-9-47

25 May '47

LD 21-100m-9,'47(A5702s16)476

U. C. BERKELEY LIBRARIES



C057816485

318795

HG 4929

A2

UNIVERSITY OF CALIFORNIA LIBRARY

2017911

101
01

1.00

